

## Calendar No. 612

105TH CONGRESS  
2D SESSION**S. 736**

To convey certain real property within the Carlsbad Project in New Mexico  
to the Carlsbad Irrigation District.

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IN THE SENATE OF THE UNITED STATES

MAY 13, 1997

Mr. DOMENICI introduced the following bill; which was read twice and referred  
to the Committee on Energy and Natural Resources

SEPTEMBER 25, 1998

Reported by Mr. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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**A BILL**

To convey certain real property within the Carlsbad Project  
in New Mexico to the Carlsbad Irrigation District.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Carlsbad Irrigation  
5       Project Acquired Land Transfer Act”.

6       **SEC. 2. CONVEYANCE.**

7       (a) ~~LANDS AND FACILITIES.—~~

1           (1) IN GENERAL.—Except as provided in para-  
2       graph (2), and subject to the conditions set forth in  
3       subsection (c) and section 2(b), the Secretary of the  
4       Interior (in this Act referred to as the “Secretary”)  
5       is hereby authorized to convey all right, title, and in-  
6       terest of the United States in and to the lands de-  
7       scribed in subsection (b) (in this Act referred to as  
8       the “acquired lands”) in addition to all interests the  
9       United States holds in the irrigation and drainage  
10      system of the Carlsbad Project and all related lands  
11      including ditch rider houses, maintenance shop and  
12      buildings, and Pecos River Flume to the Carlsbad  
13      Irrigation District (a quasi-municipal corporation  
14      formed under the laws of the State of New Mexico  
15      and in this Act referred to as the “District”).

16           (2) LIMITATIONS.—

17           (A) The Secretary shall retain title to the  
18       surface estate of such acquired lands which are  
19       located under the footprint of Brantley and Av-  
20       alon dams or any other project dam or reservoir  
21       diversion structure.

22           (B) The Secretary shall retain storage and  
23       flow easements for any tracts located under the  
24       maximum spillway elevations of Avalon and  
25       Brantley Reservoirs.

1       (b) ~~ACQUIRED LANDS DESCRIBED.~~—The lands re-  
 2       ferred to in subsection (a) are those lands (including the  
 3       surface and mineral estate) in Eddy County, New Mexico,  
 4       described as the acquired lands in section (7) of the “Sta-  
 5       tus of Lands and Title Report: Carlsbad Project” as re-  
 6       ported by the Bureau of Reclamation in 1978.

7       (c) ~~TERMS AND CONDITIONS OF CONVEYANCE.~~—Any  
 8       conveyance of the acquired lands under this Act shall be  
 9       subject to the following terms and conditions:

10           (1) The conveyed lands shall continue to be  
 11           managed and used by the District for the purposes  
 12           for which the Carlsbad Project was authorized, con-  
 13           sistent with existing management of such lands and  
 14           other adjacent project lands.

15           (2) Except as provided in paragraph (3), the  
 16           District shall assume all rights and obligations of  
 17           the United States under—

18                   (A) the agreement dated July 28, 1994,  
 19                   between the United States and the Director,  
 20                   New Mexico Department of Game and Fish  
 21                   (Document No. 2-LM-40-00640), relating to  
 22                   management of certain lands near Brantley  
 23                   Reservoir for fish and wildlife purposes; and

24                   (B) the agreement dated March 9, 1977,  
 25                   between the United States and the New Mexico

1 Department of Energy, Minerals, and Natural  
2 Resources (Contract No. 7-07-57-X0888) for  
3 the management and operation of Brantley  
4 Lake State Park.

5 (3) EXCEPTIONS.—In relation to agreements  
6 referred to in paragraph (2)—

7 (A) the District shall not be obligated for  
8 any financial support agreed to by the Sec-  
9 retary, or the Secretary's designee, in either  
10 agreement; and

11 (B) the District shall not be entitled to any  
12 receipts or revenues generated as a result of ei-  
13 ther agreement.

14 (d) SENSE OF THE CONGRESS.—It is the sense of  
15 the Congress that the Secretary should complete the con-  
16 veyance authorized by this Act, including such action as  
17 may be required under the National Environmental Policy  
18 Act of 1969 (42 U.S.C. et seq.) within 9 months of the  
19 date of enactment of this Act.

20 (e) REPORT TO CONGRESS.—If the conveyance au-  
21 thorized by this Act is not completed by the Secretary  
22 within 9 months of the date of enactment of this Act, the  
23 Secretary shall prepare a report to the Congress which  
24 shall include a detailed explanation of problems that have  
25 been encountered in completion of the conveyance, and

1 specific steps that the Secretary has taken or will take  
 2 to complete the conveyance. The Secretary's report shall  
 3 be transmitted to the Committee on Resources of the  
 4 House of Representatives, and to the Committee on En-  
 5 ergy and Natural Resources of the Senate within 30 days  
 6 after the expiration of such 9 month period.

7 **SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COL-**  
 8 **LECTED FROM THE ACQUIRED LANDS.**

9 (a) IDENTIFICATION AND NOTIFICATION OF LEASE-  
 10 HOLDERS.—Within 120 days after the date of enactment  
 11 of this Act, the Secretary of the Interior shall provide to  
 12 the District a written identification of all mineral and  
 13 grazing leases in effect on the acquired lands on the date  
 14 of enactment of this Act, and the Secretary of the Interior  
 15 shall notify all leaseholders of the conveyance authorized  
 16 by this Act.

17 (b) MANAGEMENT OF MINERAL AND GRAZING  
 18 LEASES, LICENSES, AND PERMITS.—The District shall  
 19 assume all rights and obligations of the United States for  
 20 all mineral and grazing leases, licenses, and permits exist-  
 21 ing on the acquired lands conveyed under section 2, and  
 22 shall be entitled to any receipts from such leases, licenses  
 23 and permits accruing after the date of conveyance: *Pro-*  
 24 *vided,* That all such receipts shall be used for purposes  
 25 for which the project was authorized. The District shall

1 continue to adhere to the current Bureau of Reclamation  
2 mineral leasing stipulations for the Carlsbad Project: *Pro-*  
3 *vided further*, That all future mineral leases from acquired  
4 lands within a one mile radius of Brantley and Avalon  
5 dams shall be subject to the approval of the Secretary  
6 prior to consummation of the lease.

7       (c) AVAILABILITY OF AMOUNTS PAID INTO REC-  
8 LAMATION FUND.—Receipts paid into the reclamation  
9 fund which exist as construction credits to the Carlsbad  
10 Project under the terms of the Mineral Leasing Act for  
11 Acquired Lands (30 U.S.C. 351–359) as amended shall  
12 be made available to the District as credits towards its  
13 ongoing operation and maintenance obligation to the  
14 United States until such credits are depleted: *Provided*,  
15 That immediately following the enactment of this Act,  
16 such receipts collected by the Minerals Management Serv-  
17 ice, not to exceed \$200,000, shall be made available to  
18 the Secretary for the purpose of offsetting the actual cost  
19 of implementing this Act: *Provided further*, That any re-  
20 cepts collected by the Minerals Management Service, prior  
21 to the actual date of conveyance, which are in excess of  
22 \$200,000 shall be deposited into the reclamation fund and  
23 added to existing construction credits to the Carlsbad  
24 Project.

1 **SEC. 4. WATER CONSERVATION PRACTICES.**

2       The Secretary, in cooperation with the District, is  
 3 hereby authorized to expend not to exceed \$100,000 annu-  
 4 ally, from amounts appropriated for operation and mainte-  
 5 nance within the Bureau of Reclamation, for the purposes  
 6 of implementing water conservation practices at the Carls-  
 7 bad Irrigation Project, including but not limited to  
 8 phreatophyte control: *Provided*, That matching funds shall  
 9 be provided by the District in direct proportion to the  
 10 amount of project lands held by the District in relation  
 11 to withdrawn or other project lands held by the United  
 12 States: *Provided further*, That nothing in this Act shall  
 13 be construed to limit the ability of the District to volun-  
 14 tarily implement water conservation practices.

15 **SECTION 1. SHORT TITLE.**

16       *This Act may be cited as the “Carlsbad Irrigation*  
 17 *Project Acquired Land Transfer Act”.*

18 **SEC. 2. CONVEYANCE.**

19       (a) *LANDS AND FACILITIES.*—

20               (1) *IN GENERAL.*—*Except as provided in para-*  
 21 *graph (2), and subject to subsection (c), the Secretary*  
 22 *of the Interior (in this Act referred to as the “Sec-*  
 23 *retary”)* may convey to the Carlsbad Irrigation Dis-  
 24 *trict (a quasi-municipal corporation formed under*  
 25 *the laws of the State of New Mexico and in this Act*  
 26 *referred to as the “District”), all right, title, and in-*

terest of the United States in and to the lands described in subsection (b) (in this Act referred to as the “acquired lands”) and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

(2) *LIMITATION.*—

(A) *RETAINED SURFACE RIGHTS.*—The Secretary shall retain title to the surface estate (but not the mineral estate) of such acquired lands which are located under the footprint of Brantley and Avalon dams or any other project dam or reservoir division structure.

(B) *STORAGE AND FLOW EASEMENT.*—The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(b) *ACQUIRED LANDS DESCRIBED.*—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy County, New Mexico, described as the acquired lands and in section (7) of the “Status of Lands and Title Report: Carlsbad Project” as reported by the Bureau of Reclamation in 1978.



1       (c) *TERMS AND CONDITIONS OF CONVEYANCE.*—Any  
 2       conveyance of the acquired lands under this Act shall be  
 3       subject to the following terms and conditions:

4               (1) *MANAGEMENT AND USE, GENERALLY.*—The  
 5       conveyed lands shall continue to be managed and used  
 6       by the District for the purposes for which the Carls-  
 7       bad Project was authorized, based on historic oper-  
 8       ations and consistent with the management of other  
 9       adjacent project lands.

10              (2) *ASSUMED RIGHTS AND OBLIGATIONS.*—Ex-  
 11       cept as provided in paragraph (3), the District shall  
 12       assume all rights and obligations of the United States  
 13       under—

14                      (A) the agreement dated July 28, 1994, be-  
 15       tween the United States and the Director, New  
 16       Mexico Department of Game and Fish (Docu-  
 17       ment No. 2–LM–40–00640), relating to manage-  
 18       ment of certain lands near Brantley Reservoir  
 19       for fish and wildlife purposes; and

20                      (B) the agreement dated March 9, 1977, be-  
 21       tween the United States and the New Mexico De-  
 22       partment of Energy, Minerals, and Natural Re-  
 23       sources (Contract No. 7–07–57–X0888) for the  
 24       management and operation of Brantley Lake  
 25       State Park.

1           (3) *EXCEPTIONS.*—*In relation to agreements re-*  
 2           *ferred to in paragraph (2)—*

3                   (A) *the District shall not be obligated for*  
 4                   *any financial support agreed to by the Sec-*  
 5                   *retary, or the Secretary's designee, in either*  
 6                   *agreement; and*

7                   (B) *the District shall not be entitled to any*  
 8                   *receipts for revenues generated as a result of ei-*  
 9                   *ther agreement.*

10          (d) *COMPLETION OF CONVEYANCE.*—*If the Secretary*  
 11          *does not complete the conveyance within 180 days from the*  
 12          *date of enactment of this Act, the Secretary shall submit*  
 13          *a report to the Congress within 30 days after that period*  
 14          *that includes a detailed explanation of problems that have*  
 15          *been encountered in completing the conveyance, and specific*  
 16          *steps that the Secretary has taken or will take to complete*  
 17          *the conveyance.*

18          **SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COL-**  
 19                                   **LECTED FROM THE ACQUIRED LANDS.**

20          (a) *IDENTIFICATION AND NOTIFICATION OF LEASE-*  
 21          *HOLDERS.*—*Within 120 days after the date of enactment*  
 22          *of this Act, the Secretary of the Interior shall—*

23                   (1) *provide to the District a written identifica-*  
 24                   *tion of all mineral and grazing leases in effect on the*

1        *acquired lands on the date of enactment of this Act;*  
 2        *and*

3            *(2) notify all leaseholders of the conveyance au-*  
 4        *thorized by this Act.*

5        *(b) MANAGEMENT OF MINERAL AND GRAZING LEASES,*  
 6        *LICENSES, AND PERMITS.—The District shall assume all*  
 7        *rights and obligations of the United States for all mineral*  
 8        *and grazing leases, licenses, and permits existing on the ac-*  
 9        *quired lands conveyed under section 2, and shall be entitled*  
 10       *to any receipts from such leases, licenses, and permits ac-*  
 11       *cruing after the date of conveyance. All such receipts shall*  
 12       *be used for purposes for which the Project was authorized*  
 13       *and for financing the portion of operations, maintenance,*  
 14       *and replacement of the Summer Dam which, prior to con-*  
 15       *veyance, was the responsibility of the Bureau of Reclama-*  
 16       *tion, with the exception of major maintenance programs in*  
 17       *progress prior to conveyance which shall be funded through*  
 18       *the cost share formulas in place at the time of conveyance.*  
 19       *The District shall continue to adhere to the current Bureau*  
 20       *of Reclamation mineral leasing stipulations for the Carls-*  
 21       *bad Project.*

22       *(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMA-*  
 23       *TION FUND.—*

24            *(1) EXISTING RECEIPTS.—Receipts in the rec-*  
 25        *lamation fund on the date of enactment of this Act*

1       *which exist as construction credits to the Carlsbad*  
 2       *Project under the terms of the Mineral Leasing Act*  
 3       *for Acquired Lands (30 U.S.C. 351–359) shall be de-*  
 4       *posited in the General Treasury and credited to defi-*  
 5       *cit reduction or retirement of the Federal debt.*

6               (2) *RECEIPTS AFTER ENACTMENT.*—*Of the re-*  
 7       *ceipts from mineral and grazing leases, licenses, and*  
 8       *permits on acquired lands to be conveyed under sec-*  
 9       *tion 2, that are received by the United States after the*  
 10       *date of enactment and before the date of conveyance—*

11               (A) *not to exceed \$200,000 shall be available*  
 12       *to the Secretary for the actual costs of imple-*  
 13       *menting this Act with any additional costs*  
 14       *shared equally between the Secretary and the*  
 15       *District; and*

16               (B) *the remainder shall be deposited into*  
 17       *the General Treasury of the United States and*  
 18       *credited to deficit reduction or retirement of the*  
 19       *Federal debt.*

20       **SEC. 4. VOLUNTARY WATER CONSERVATION PRACTICES.**

21       *Nothing in this Act shall be construed to limit the abil-*  
 22       *ity of the District to voluntarily implement water conserva-*  
 23       *tion practices.*

1 **SEC. 5. LIABILITY.**

2       *Effective on the date of conveyance of any lands and*  
3 *facilities authorized by this Act, the United States shall not*  
4 *be held liable by any court for damages of any kind arising*  
5 *out of any act, omission, or occurrence relating to the con-*  
6 *veyed property, except for damages caused by acts of neg-*  
7 *ligence committed by the United States or by its employees,*  
8 *agents, or contractors, prior to conveyance. Nothing in this*  
9 *section shall be considered to increase the liability of the*  
10 *United States beyond that provided under chapter 171 of*  
11 *title 28, United States Code, popularly known as the Fed-*  
12 *eral Tort Claims Act.*

13 **SEC. 6. FUTURE BENEFITS.**

14       *Effective upon transfer, the lands and facilities trans-*  
15 *ferred pursuant to this Act shall not be entitled to receive*  
16 *any further Reclamation benefits pursuant to the Reclama-*  
17 *tion Act of June 17, 1902, and Acts supplementary thereof*  
18 *or amendatory thereto attributable to their status as part*  
19 *of a Reclamation Project.*

Calendar No. 612

105<sup>TH</sup> CONGRESS  
2D Session  
**S. 736**

**A BILL**

To convey certain real property within the Carlsbad  
Project in New Mexico to the Carlsbad Irrigation  
District.

SEPTEMBER 25, 1998  
Reported with an amendment